

National Environmental Policy Act (NEPA) and the APHIS Petition Process

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National Environmental Policy Act of 1969



- Procedural Law
 - Does not regulate federal activities
 - Establishes a process for planning future actions
- Administered by Council on Environmental Quality (CEQ)
- CEQ established within the Executive Office of the President



Purpose of NEPA



- Requires federal agencies to consider environmental issues in reaching a decision
- Its intent is not to control and regulate activities but to require agencies to consider the environmental consequences of their decisions prior to beginning an activity



Purpose of NEPA cont'd



- Applies to Major Federal Actions
 - Actions carried out
 - Projects and programs financed
 - Actions requiring federal approval (regulatory actions)
 - Rulemaking, regulations, plans, policies, or procedures



NEPA Implementing Regulations



- CEQ (40 CFR parts 1500-1508)
 - Establishes overarching regulations
 - Direct agencies to adopt procedures to supplement these regulations
- USDA (7 CFR part 1b)
- APHIS (7 CFR part 372)



APHIS 7 CFR part 372

Defines 3 Classes of Action



- **Categorical Exclusion** is a class of action that does not individually or cumulatively have a significant effect on the quality of the human environment, and has been identified as having no such effect in procedures adopted by APHIS.
- **Environmental Assessment (EA)** is a concise public document that briefly provides sufficient evidence and analysis for determining whether to prepare a Finding of No Significant Impact (FONSI) or an Environmental Impact Statement (EIS).



APHIS 7 CFR part 372

Defines 3 Classes of Action cont'd

- **Environmental Impact Statement (EIS)** is a detailed written statement on the environmental impact of a proposed action. An EIS must be prepared if a federal proposal (action) cannot be categorically excluded and is not eligible for a FONSI.



Environmental Assessment



- § 372.5(b) Actions normally requiring EAs but not necessarily EISs. This class of APHIS actions may involve the agency as a whole or an entire program, but generally is related to a more discrete program component and is characterized by its limited scope (particular sites, species, or activities) and potential effect (impacting relatively few environmental values or systems). Individuals and systems that may be affected can be identified. Methodologies,



Environmental Assessment cont'd

strategies, and techniques employed to deal with the issues at hand are seldom new or untested. Alternative means of dealing with those issues are well established. Mitigation measures are generally available and have been successfully employed.



Environmental Impact Statement

- § 372.5(a) Actions normally requiring EISs. This class of policymakings and rulemakings seeks to establish programmatic approaches to animal and plant health issues. Actions in this class typically involve the agency, an entire program, or a substantial program component and are characterized by their broad scope (often global or nationwide) and potential effect (impacting a wide range of environmental quality values or wide range of environmental

Environmental Impact Statement cont'd

quality values or indicators, whether or not affected individuals or systems may be completely identified at the time). Ordinarily, new or untried methodologies, strategies, or techniques to deal with pervasive threats to animal and plant health are the subjects of this class of actions. Alternative means of dealing with those threats usually have not been well developed.



Petition Process



- Petition Completeness Review
 - 7 CFR 340
 - NEPA
- Plant Pest Risk Assessment (PPRA)
- Draft NEPA Document (EA/EIS)
- Public Comment – minimum 60 days (new petition)



Petition Process cont'd



- Final NEPA Documents/PPRA
- Determination
- Publication in *Federal Register*



NEPA Process



- Scoping
 - EA – formal or informal
 - EIS – formal process set by CEQ regulation
- Prepare draft EA/EIS
- Public comment
 - EA – length set by agency
 - EIS – minimum length set by CEQ regulation



NEPA Process cont'd



- Prepare final EA/EIS
- NEPA Decision
 - EA – Finding of No Significant Impact/Notice of Intent to Prepare EIS
 - EIS – Record of Decision



Development of NEPA Document

- APHIS
- Contractor – Cooperative Service Agreement/APHIS funded
- Combination of both



Sources Used to Prepare NEPA Document



- Petition
- PPRA
- Environmental Report
- Other Information
 - provided by applicant
 - obtained by APHIS



Preparation of the NEPA Document

■ Petition and PPRA

- Complete petition and PPRA are used to assist with describing the applicant's action, affected environment and potential environmental effects
- PPRA is used to develop of full range of alternatives



Preparation of the NEPA Document cont'd



■ **Environmental Report**

- A technical document that provides the basis for a NEPA analysis. An Environmental Report describes the applicant's action, affected environment and potential environmental effects of the petition request.



Agency Involvement



- Coordinated Framework
 - Food and Drug Administration (FDA)
 - Environmental Protection Agency (EPA)
- US Fish & Wildlife Services (USFWS)
- Tribes
- Other Agencies



Agency Decision



- PPRA
- Completed NEPA Process